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2 **WAGANAKISING ODAWAK STATUTE # 2020-_____**
3 **HEMP AUTHORIZATION AND REGULATORY COMMISSION STATUTE**
4

5
6 **SECTION I. PURPOSE**
7

8 The purpose of this Statute is to authorize the regulating of Hemp, and create the Hemp
9 Regulatory Commission that will license, regulate, inspect and have enforcement regulatory
10 power for Hemp Operations and repeals and replaces WOS 2019-013 and any previous Statutes
11 including WOS 2019-008.
12
13

14 **SECTION II. DEFINITIONS**
15

16 **A.** “Acceptable Hemp THC Level” means when a laboratory tests a sample, it must report the
17 delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the
18 measurement of uncertainty. The Acceptable Hemp THC Level for the purpose of compliance with
19 the requirements of State, Tribal, or USDA hemp plans is when the application of the measurement
20 of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry
21 weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported
22 delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the
23 measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content
24 concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because
25 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for
26 the purpose of plan compliance. This definition of “Acceptable Hemp THC Level” affects neither
27 the statutory definition of hemp, 7 U.S.C. § 1639o (1), in the 2018 Farm 121 Bill nor the definition
28 of “marihuana,” 21 U.S.C. § 802(16), in the federal Controlled Substances Act. (“CSA”).
29

30 **B.** “Act” means the Agricultural Marketing Act of 1946.
31

32 **C.** “Applicant” means a person, or a person who is authorized to sign for a business entity,
33 who submits an application to participate in the industrial Hemp program.
34

35 **D.** “Cannabis” means a genus of flowering plants in the family Cannabaceae of which
36 *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof.
37 Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration

1 on a dry weight basis has not yet been determined.

2
3 **E.** “CBD” means cannabidiol.

4
5 **F.** “Certified seed” means seed for which a certificate or any other instrument has been
6 issued by an agency authorized under the laws of a state, territory, or possession to officially
7 certify seed and that has standards and procedures approved by the United States Secretary of
8 Agriculture to assure the genetic purity and identity of the seed certified.

9
10 **G.** “Commission” means the Hemp Regulatory Commission which is comprised of three to
11 five appointed officials, and duly authorized staff exercising delegated authority of the
12 Commission.

13
14 **H.** “Controlled Substances Act” (“CSA”) means the Controlled Substances Act as codified in
15 21 U.S.C. 801 *et seq.*

16
17 **I.** “Conviction” means any plea of guilty or nolo contendere, or any finding of guilt, except
18 when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For
19 purposes of this Statute, a conviction is expunged when the conviction is removed from the
20 individual’s criminal history record and there are no legal disabilities or restrictions associated with
21 the expunged conviction, other than the fact that the conviction may be used for sentencing
22 purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an
23 original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently
24 dismissed, the individual is no longer considered to have a conviction for purposes of this Statute.

25
26 **J.** “Corrective Action Plan” means a plan established pursuant to this Statute for a licensed
27 hemp Producer to correct a negligent violation or non-compliance with a hemp production plan
28 and/or 7 C.F.R. Part 990.

29
30 **K.** “Criminal History Report” means the Federal Bureau of Investigation’s Identity History
31 Summary.

32
33 **L.** “Culpable mental state greater than negligence” means to act intentionally, knowingly,
34 willfully, or recklessly.

35
36 **M.** “DEA” means the United States Drug Enforcement Administration

37
38 **N.** “Decarboxylated” means the completion of the chemical reaction that converts THC-acid

1 into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also
2 calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths
3 (87.7) percent of THC-acid.

4
5 **O.** “Delta-9-THC” means delta-9-tetrahydrocannabinol concentration (the primary
6 intoxicating component of cannabis).

7
8 **P.** “Directly related to” means immediate family relations as defined in the Tribe's
9 Constitution or any other statute defining nepotism.

10
11 **Q.** "Dry Weight Basis" means the ratio of the amount of moisture in a sample to the amount
12 of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after
13 removing the moisture from the substance. Percentage of THC on a dry weight basis means the
14 percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after
15 excluding moisture from the item.

16
17 **R.** "Entity" means corporation, joint stock company, association, limited partnership, limited
18 liability partnership, limited liability company, irrevocable trust, estate, charitable organization,
19 or other similar organization, including any such organization participating in the hemp
20 production as a partner in a general partnership, a participant in a joint venture, or a participant in
21 a similar organization.

22
23 **S.** "Farm Service Agency" or "FSA" means an agency of the United States Department of
24 Agriculture.

25
26 **T.** “Financial Interest” is a person or entity that has more than a five (5) percent interest,
27 share or ownership in an operation(s).

28
29 **U.** "Geospatial location" means a location designated through a global system of
30 navigational satellites used to determine the precise ground position of a place or object.

31
32 **V.** "GPS" means Global Positioning System.

33
34 **W.** "Grower licensing agreement" means a document executed by a person and the
35 Commission authorizing the person to grow, handle, and store Hemp at one (1) or more specified
36 locations.

1 **X.** "Handle" means to harvest or store hemp or hemp plant parts prior to the delivery of such
2 plants or plant parts for further processing. "Handle" also includes the disposal of cannabis
3 plants that are not hemp for purposes of chemical analysis and disposal of such plants.
4

5 **Y.** "Harvest Lot" means a quantity of Hemp, of the same Variety, harvested in a distinct
6 timeframe that is cultivated in one contiguous production area of a field, greenhouse or indoor
7 growing structure containing the same variety or strain of cannabis throughout the area.
8

9 **Z.** "Harvest Lot Identifier" means a unique identifier used by the Commission to identify
10 the Harvest Lot.
11

12 **AA.** "Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds
13 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
14 whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3
15 percent on a dry weight basis.
16

17 **BB.** "Hemp Crop" means one (1) or more unprocessed Hemp plants or plant parts.
18

19 **CC.** "High performance liquid chromatography" or "HPLC" means a type of chromatography
20 technique in analytical chemistry used to separate, identify, and quantify each component in a
21 mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample
22 mixture through a column filled with a solid absorbent material to separate and analyze
23 compounds.
24

25 **DD.** "Industrial Hemp products" means products derived from, or made by, processing
26 industrial Hemp plants or plant parts.
27

28 **EE.** "Information sharing system" means the database mandated under the Act which allows
29 USDA to share information collected under State, tribal and USDA plans with Federal, State,
30 Tribal and local law enforcement.
31

32 **FF.** "Key participants" means a sole proprietor, a partner in partnership, or a person with
33 executive managerial control in a corporation. A person with executive managerial control
34 includes persons such as a chief executive officer, chief operating officer and chief financial
35 officer. This definition does not include non-executive managers such as farm, field, or shift
36 managers.
37

1 **GG.** “Law enforcement agency” means the Little Traverse Bay Bands of Odawa Indians Tribal
2 Police, Drug Enforcement Administration (DEA), or other federal law enforcement agency or
3 drug suppression unit having jurisdiction.

4
5 **HH.** “Location” or “Land” means the particular land, building or buildings where Hemp will
6 be grown, handled, stored, or processed, which can include a field name or building name.

7
8 **II.** “Location ID” means the unique identifier established by the applicant for each unique set
9 of GPS coordinates or Geospatial location where Hemp will be grown, handled, stored, or
10 processed, which can include legal description, a field name or building name.

11
12 **JJ.** “Marijuana” or “marihuana” means all parts of the plant *Cannabis sativa* L., whether
13 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every
14 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.
15 The term ‘marihuana’ does not include hemp, as defined in section 297A of the Agricultural
16 Marketing Act of 1946, and does not include the mature stalks of such plant, fiber produced from
17 such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture,
18 salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted
19 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of
20 germination (7 U.S.C. 1639o). “Marihuana” means all cannabis that tests as having a
21 concentration level of THC on a dry weight basis of higher than 0.3 percent.

22
23 **KK.** "Measurement of Uncertainty" or "MU" means the parameter, associated with the result
24 of a measurement, that characterizes the dispersion of the values that could reasonably be
25 attributed to the particular quantity subject to measurement.

26
27 **LL.** "Negligence" means failure to exercise the level of care that a reasonably prudent person
28 would exercise in complying with this Statute, the Act or 7 CFR Part 990.

29
30 **MM.** “Nonviable seed” means a seed that has been crushed, dehulled, or otherwise rendered to
31 have a zero percent germination rate.

32
33 **NN.** “Person” means an individual or business entity.

34
35 **OO.** "Pesticide" means any substance or mixture of substances intended to:

- 36 **1.** Prevent, destroy, control, repel, attract, or mitigate any pest.
37 **2.** Be used as a plant regulator, defoliant, or desiccant. or

1 **3.** Be used as a spray adjuvant, once they have been mixed with a U.S.
2 Environmental Protection Agency registered product.

3
4 **QQ.** "Phytocannabinoid" means cannabinoid chemical compounds found in the cannabis plant,
5 two of which are Delta-9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).

6
7 **RR.** "Postdecarboxylation" means, in the context of testing methodologies for THC
8 concentration levels in hemp, means a value determined after the process of decarboxylation that
9 determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the
10 THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of
11 THC can be calculated by using a chromatograph technique using heat, gas chromatography,
12 through which THCA is converted from its acid form to its neutral form, THC. Thus, this test
13 calculates the total potential THC in a given sample. The postdecarboxylation value of THC can
14 also be calculated by using a high-performance liquid chromatograph technique, which keeps the
15 THCA intact, and requires a conversion calculation of that THC-A to calculate total potential
16 THC in a given sample. See the definition for decarboxylation.

17
18 **SS.** "PPM" means parts per million.

19
20 **TT.** "Pre-harvest sample" means a composite, representative portion from plants in a Hemp lot
21 collected in accordance with the procedures as established by the Commission and federal law.

22
23 **UU.** "Produce" means to grow hemp plants for market, or for cultivation for market, pursuant
24 to this Statute.

25
26 **VV.** "Producer" means a Producer as defined in 7 CFR 718.2 that is licensed or authorized to
27 produce hemp under this Statute and 7 CFR Part 990, specifically, "an owner, operator, landlord,
28 tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in
29 the crop available for marketing from the farm, or would have shared had the crop been
30 produced. A Producer includes a grower of hybrid seed."

31
32 **WW.** "Prohibited variety" means a variety or strain of cannabis excluded by the Commission.

33
34 **XX.** "Program" means the Commission's Industrial Hemp Program.

35
36 **YY.** "Propagule" means a plant or plant part that can be utilized to grow a new plant.

1 **AAA.** “Reverse Distributor” means a person who is registered with the DEA in accordance with
2 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

3
4 **BBB.** “Seed source” means the origin of the seed or propagules as determined by the
5 Commission.

6
7 **CCC.** “Signing authority” means an officer or agent of the organization with written
8 authorization to commit the legal entity to a binding agreement.
9

10 **DDD.** “Territory of the Tribe” has the same meaning as “Indian Country” in 18 U.S.C. 1151.
11

12 **EEE.** "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians which was
13 reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the
14 special programs and services provided by the United States to Indians because of their status as a
15 federally recognized tribe, and are recognized as possessing powers of self-government.
16

17 **FFF.** "Tribal Police" or "Tribal Law Enforcement" shall mean the Little Traverse Bay Bands of
18 Odawa Indians Tribal Police Department.
19

20 **GGG.** "Tribal Council" means the Legislative body of the Little Traverse Bay Bands of Odawa
21 Indians (LTBB).
22

23 **HHH.** "Tribal Court" means the LTBB Court created under Article IX of the LTBB Constitution.
24

25 **III.** “Variety” means a subdivision of a species that is:
26

27 **1.** Uniform, in the sense that the variations in essential and distinctive characteristics
28 are describable.
29

30 **2.** Stable, in the sense that the variety will remain unchanged in its essential and
31 distinctive characteristics and its uniformity if reproduced or reconstituted as required by
32 the different categories of varieties. and
33

34
35 **3.** Distinct, in the sense that the variety can be differentiated by one (1) or more
36 identifiable morphological, physiological, other characteristics from all other publicly
37 known varieties, or other characteristics from all other publicly known varieties.
38

1 **JJJ.** “Variety of concern” means any variety of Hemp in the Commission’s program that tests
2 above 3,000 ppm or 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A Hemp
3 variety designated as a "variety of concern" could be subject to restrictions and additional testing.
4

5 **KKK.** “Volunteer cannabis plant” means any cannabis plant that grows of its own accord from
6 seeds or roots in the years following an intentionally planted cannabis crop. and is not
7 intentionally planted.
8
9

10 **SECTION III. HEMP AUTHORIZED**

11
12 This Statute authorizes the Production and Handling of Hemp within locations within the
13 Territory of the Tribe.
14
15

16 **SECTION IV. HEMP REGULATORY COMMISSION**

17
18 **A.** The Tribe hereby establishes a Hemp Regulatory Commission as an Executive
19 Commission whose duty it is to regulate Hemp operations. The Commission shall consist of at
20 least three (3) but not more than five (5) persons. There shall be among them a Chairperson, Vice-
21 Chairperson, Secretary and Treasurer, provided the Secretary and Treasurer may be combined
22 into one position.
23

24 **B.** The purpose of the Commission is to ensure compliance with Tribal, Federal, and, if
25 applicable, State laws and regulations. The Commission will serve as the licensing authority for
26 Hemp Production within the Territory of the Tribe. The Commission shall have authority to take
27 all actions authorized by this Statute. In order to carry out its regulatory duties, the Commission
28 shall have unrestricted access to all areas of a Hemp operation and to all records. The Commission
29 shall have authority to take enforcement actions as authorized by this Statute.
30

31 **C.** The Tribe recognizes the importance of an independent Commission in maintaining a well-
32 regulated Hemp operation. The Commission shall be and act independently, and autonomously
33 from the Tribal Council in all individual licensing decisions. No prior or subsequent review by the
34 Tribal Council of any licensing and fining actions of the Commission shall be required or permitted
35 except as otherwise explicitly provided in this Statute. To avoid potential conflicts of interest
36 between an operation and regulation of the Hemp facility, the Tribe hereby finds that, at a

1 minimum:

- 2
- 3 1. No member of the Tribal Council may serve on the Commission.
 - 4
 - 5 2. No person with a financial interest in a Hemp Producer shall serve on the
 - 6 Commission.
 - 7
 - 8 3. The following persons are ineligible to serve on the Commission: employees of any
 - 9 Hemp producer or persons directly related to or sharing a residence with any Hemp
 - 10 Producer.

11

12 **D.** The members of the Commission shall be appointed by the Tribal Council as follows:

- 13
- 14 1. Composition of the Commission. The Commission shall consist of three (3) to five
 - 15 (5) people appointed by the Tribal Council and shall be licensed.
 - 16
 - 17 2. Term. Members of the Commission shall be appointed to serve for three (3) year
 - 18 terms. Terms shall be staggered so no more than two terms start in any one year. Members
 - 19 may be reappointed for additional terms without limitation.
 - 20
 - 21 3. Subject to the availability of funding and a budget approved by the Tribal Council,
 - 22 members of the Commission may receive a stipend, mileage and expense reimbursement
 - 23 in accordance with a stipend policy adopted by the Tribal Council.

24

25 **E.** The Commission shall:

- 26
- 27 1. Approve the permitting of a “Location” or “Land”.
 - 28
 - 29 2. Ensure that Criminal History checks are conducted in accordance with this Statute
 - 30 and federal law.
 - 31
 - 32 3. Make suitability determinations, which shall be signed by a majority of the
 - 33 Commissioners present when the license is approved.
 - 34
 - 35 4. Issue Hemp licenses to Hemp Producers, consistent with the suitability
 - 36 determination.

1 **5.** Inspect, examine and monitor all Hemp Producers, and have immediate access to
2 review, inspect, examine, photocopy and audit all Hemp related records of any Hemp
3 Producer.

4
5 **6.** Ensure compliance with all Tribal and Federal laws, rules, and regulations
6 regarding Hemp.

7
8 **7.** Investigate any suspicion of wrongdoing associated with any Hemp activities, and
9 report any potential criminal violations to Tribal Law Enforcement and federal
10 authorities as required by this Statute.

11
12 **8.** Promulgate and issue regulations on the levying of fees associated with Hemp
13 license applications.

14
15 **9.** Promulgate and issue regulations on suspension or revocation of Hemp licenses for
16 violations of this Statute, or any other Tribal, Federal, or (if applicable) State Hemp
17 regulations, as set forth in this Statute.

18
19 **10.** Perform such other duties the Commission deems appropriate for the proper
20 regulation of the Hemp operation, consistent with federal law.

21
22 **11.** The Commission shall be authorized to employ such staff and/or consultants as
23 reasonably may be required to fulfill its responsibilities under this Statute.

24
25 **12.** The Commission shall ensure that all records and information obtained as a result
26 of a background investigation or criminal history check shall remain confidential and shall
27 not be disclosed to persons who are not directly involved in the licensing process.

28
29
30 **F.** The Commission shall collect, and retain for a period of at least three calendar years,
31 Location ID information for every site or location where the Commission has approved Hemp to
32 be grown.

33
34 **G.** The Commission shall issue hemp licenses authorized by this Statute, consistent with the
35 suitability determination, and shall assign each producer with a license or authorization identifier
36 in a format prescribed by USDA.

1 **H.** Removal. Members of the Commission can only be removed by a majority vote of Tribal
2 Council.

3
4 **I.** A majority of the sitting members of the Commission shall constitute a quorum. The
5 concurrence of a majority of the members appointed to the Commission shall be required for any
6 final determination by the Commission. The Commission may act in its official capacity even if
7 there are vacancies on the Commission.

8
9 **J.** The Commission shall keep a written record of all its regularly scheduled, special, and
10 emergency meetings, and licensing hearings and meetings.

11
12 **J.** All regulations promulgated under this Statute shall be submitted to Tribal Council for
13 approval.

14
15 **SECTION V. LICENSING APPLICATION**

16
17 **A.** Producer License Application.

18
19 **1.** Any person who wishes to produce Hemp at any location within the Territory of
20 the Tribe shall submit to the Commission a completed License Application no less than
21 once every three (3) years.

22
23 **2.** A person who does not hold a license from the Commission shall not Produce
24 Hemp at any location within the Territory of the Tribe.

25
26 **3.** The Commission shall deny any Producer License Application that fails to meet
27 the deadline established in the application.

28
29 **4.** Each Applicant shall pay an application fee in the amount established and
30 approved by Tribal Council.

31
32 **5.** The Application shall include the following at a minimum:

33
34 **i.** Full name, residential address, telephone number, and email address, if an
35 email address is available, of the Applicant.

- 1 **ii.** If the applicant represents a business entity:
2
3 a) the full name of the business;
4 b) the principal business location address;
5 c) the full name of the applicant who will have signing authority on
6 behalf of the entity, and title, and email address if an email address is
7 available, of the person;
8 d) the full names, addresses, phone numbers and email addresses (if
9 available) of all owners, operators, landlords, tenants, or sharecroppers,
10 who share in the risk of producing a hemp crop and who are entitled to
11 share in the hemp crop available for marketing from the hemp growing
12 operation, or who would have shared had the crop been produced;
13 e) the full names, addresses, telephone numbers and email addresses
14 of all Key Participants of the business entity; and
15 f) the EIN of the business entity.

16
17 **iii.** Documentation showing either a valid tenancy, ownership or other legal
18 interest in the proposed property.

19
20 **iv.** Street address, location ID, legal description and GPS coordinates or
21 Geospatial location for each field, greenhouse, building, or site where
22 Hemp will be grown, handled, processed or stored.

23
24 **v.** Information regarding any other Hemp growing or processing facility that
25 is licensed in any other jurisdiction.

26
27 **6.** A current Criminal History Report for the Applicant/Producer, and for Applicants
28 that are entities, all Key Participants, dated within 60 days prior to the application
29 submission date. A license application will not be considered complete without all
30 required Criminal History Reports.

31
32 **7.** A business plan and operations plan shall be included with the application that
33 includes at a minimal the following:

34 **i.** The proposed acreage or greenhouse or indoor square footage to be planted
35 or used for processing.

36
37 **ii.** A description of the type of facility proposed and the anticipated or actual
38 number of employees. The name of the proposed Manager of the Facility.

1 **SECTION VI. LOCATION OR LAND PERMIT**

2
3 **A.** A licensed Producer shall not plant or grow any cannabis that is not Hemp.

4
5 **B.** A licensed Producer shall not plant or grow Hemp or other cannabis on any site not listed
6 in the Producer licensing agreement.

7
8 **C.** A licensed Producer shall not grow Hemp or other cannabis in or adjacent to any structure
9 that is used for residential purposes.

10
11 **D.** A licensed Producer shall not handle or store leaf or floral material from Hemp or other
12 cannabis in or adjacent to any structure that is used for residential purposes.

13
14 **E.** Hemp shall be physically segregated from other crops unless prior approval is obtained in
15 writing from the Commission.

16
17 **F.** A licensed Producer shall not plant Hemp or other cannabis plants in an outdoor growing
18 location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing
19 from the Commission.

20
21 **G.** A licensed Producer shall not grow Hemp or other cannabis in any outdoor field or site
22 that is located within 1,000 feet of a school or a public recreational area.

23
24 **H.** An applicant or licensed Producer shall not include any property on his or her application
25 or Site Modification Request, to grow or cultivate Hemp that is not owned or completely
26 controlled by the applicant or licensed Producer.

27
28 **I.** A licensed Producer shall not grow, handle, or store Hemp or other cannabis on property
29 owned by, leased from, or previously submitted in a license application by any person who is
30 ineligible or was terminated, or denied a license.

31
32 **SECTION VII. APPEALS**

33
34 **A.** Any person who would like to challenge a denial of a license or a suspension of a license
35 must request a hearing before the Commission, prior to an appeal being filed in Tribal Court. The
36 Commission Hearing shall be open to the public and occur at a time and date and location

1 designated by the Commission.

2
3 **B.** The Court shall uphold the decision of the Commission unless the Court determines that
4 the Commission’s decision is clearly arbitrary, capricious, or otherwise not in accordance with
5 applicable law or regulations.

6
7
8 **SECTION VIII. PRODUCER LICENSING AGREEMENTS**

9
10 **A.** An applicant shall not be a participant in the Commission’s program until the
11 conditionally approved applicant and the Commission have executed a Producer licensing
12 agreement.

13
14 **B.** The agreement shall have a consent to entry onto, and inspection of, all premises where
15 Hemp or other cannabis plants or materials are located, or licensed to be located, by
16 representatives of the Commission and law enforcement agencies, with or without cause, with or
17 without advance notice.

18
19 **C.** Consent to forfeiture and destruction, without compensation, of:

- 20
21 **1.** Material found that exceeds the Acceptable Hemp THC Level.
22
23 **2.** Hemp plants located in an area that is not licensed by the Commission
24
25 **3.** Hemp plants not accounted for in required reporting to the Commission.
26

27 **D.** The Applicant agrees to apply for registration of all Hemp Production locations, including
28 a legal description of the location, GPS coordinates or Geospatial location, and receive
29 Commission approval for those locations prior to having Hemp on those premises.

30 **E.** The Applicant acknowledges that licensed Producers shall submit a Site Modification
31 Request Form, the appropriate fees based on the requested changes, and obtain prior written
32 approval from a representative of the Commission before implementing any change to the
33 licensed sites stated in the Producer licensing agreement, and that Hemp Production site changes
34 shall be subject to a site modification surcharge.

35
36 **F.** The Applicant acknowledges that Hemp shall not be Produced in any location other than

1 the location listed in the Producer licensing agreement.

2
3 **G.** The Applicant agrees not to interplant Hemp with any other crop.

4
5 **H.** The Applicant acknowledges that anyone applying pesticides to Hemp shall hold a
6 pesticide license and apply pesticides in accordance with regulations or the agreement.

7
8 **I.** The Applicant acknowledges that licensed Producers shall comply with restrictions
9 established by the Commission limiting the transportation of Hemp plants and plant parts.

10
11 **J.** The Applicant acknowledges that the risk of financial or other loss shall be borne solely
12 by the licensed Producer.

13
14 **K.** The Applicant agrees that any time Hemp is in transit, a copy of the Producer licensing
15 agreement, a copy of the pre-harvest test results that correspond to the Harvest Lot in transit as
16 identified by the Harvest Lot Identifier that accompanies the Hemp, a copy of the transport
17 manifest that includes all information required to be documented by the Commission or the Tribe,
18 and any other documentation that may be required by the Tribe, the Commission, or the USDA,
19 shall be available for inspection upon the request of a representative of the Commission or a law
20 enforcement agency.

21
22 **L.** The Applicant agrees that, upon request from a representative of the Commission or a law
23 enforcement agency, a licensed Producer shall immediately produce a copy of his or her Producer
24 licensing agreement for inspection.

25
26 **M.** The Applicant agrees to submit Planting Reports, Harvest/Destruction Reports, and
27 Production Reports, and other reports required by the Commission or any federal authority, to
28 which the Producer has agreed, on or before the deadlines established in this Statute.

29
30 **N.** The Applicant agrees to scout and monitor unregistered fields for volunteer cannabis
31 plants and to destroy those volunteer cannabis plants for three (3) years past the last date of
32 planting reported to the Commission.

33
34 **O.** The Applicant agrees not to employ or rent land to Produce Hemp from any person who
35 was terminated or denied admission to the program for one (1) or both of the following reasons:
36

- 1 **1.** Failure to obtain an acceptable Criminal History Report; or
2 **2.** Failure to comply with an order from a representative of the Commission.

3
4 **P.** The Applicant agrees that land used for the Production of Hemp shall not be owned by or
5 leased from any person who was terminated, or denied admission to the program for one (1) or
6 both of the following reasons:

- 7
8 **1.** Failure to obtain an acceptable Criminal History Report or
9 **2.** Failure to comply with an order from a representative of the Commission.

10
11 **Q.** The Applicant agrees to notify the Commission of any interaction with law enforcement
12 immediately by phone and follow-up in writing within three (3) calendar days of the occurrence.

13
14 **R.** The Applicant agrees to notify the Commission of any theft of cannabis materials,
15 whether growing or not.

16
17 **S.** Failure to agree or comply with terms and conditions established in the Producer licensing
18 agreement shall constitute grounds for appropriate Commission action, up to and including
19 termination of the Producer licensing agreement and expulsion from the Commission’s program.

20
21 **T.** A person who has been expelled from the program shall not be eligible to reapply to the
22 program for a period of five (5) years from the date of expulsion.

23
24 **U.** Failure to agree and sign the Producer licensing agreement shall terminate conditional
25 approval and a licensing agreement shall not be executed.

26
27 **SECTION IX. REGULATIONS FOR SAMPLING AND THC TESTING**

28
29 **A.** The Commission shall adopt Regulations for Sampling, Testing, and Post-Testing Actions
30 consistent with this Statute, applicable federal law, and that contain the following, but not limited
31 to:

- 32
33 **1.** Handling Procedures of Pre-Harvest Samples
34
35 **2.** Pre-Harvest Sampling Procedure
36

- 1 **3.** *A Harvest/Destruction Report* Form and Reporting consistent with federal law.
- 2
- 3 **4.** Time-frames and Producer Responsibilities.
- 4
- 5 **5.** Inspections and sample collection.
- 6
- 7 **6.** Process for harvested materials from Varieties of Concern.
- 8
- 9 **7.** Floral materials harvested for testing.
- 10
- 11 **8.** Notification and reporting consistent with federal law.
- 12
- 13 **9.** Equipment Used.
- 14
- 15 **10.** Selecting Samples for Testing
- 16

17 **B.** Any regulations promulgated or required in accordance with this Statute shall be
18 consistent with applicable federal law, follow the Tribe’s Administrative Procedures Act and be
19 submitted to Tribal Council for approval. Any changes to the Tribal plan will be submitted to the
20 USDA for approved, before implementation.

21
22 **SECTION X. SITE MODIFICATIONS AND SITE MODIFICATION**
23 **SURCHARGE FEES.**

24
25 **A.** A licensed Producer who elects to Produce Hemp on a site other than the sites specified
26 by a legal description and the GPS coordinates or Geospatial location listed in the Producer
27 licensing agreement shall submit a Site Modification Request Form, and obtain written approval
28 from a representative of the Commission, prior to planting at the proposed location. The
29 Commission shall report any location change to the FSA.

30
31 **B.** Any request for a new hemp production location shall comply with the land use
32 restrictions.

33
34 **C.** The Commission shall charge a site modification surcharge fee for each new production
35 location, be it an individual field or greenhouse or indoor structure, where Hemp will be planted.

1 **D.** The Commission shall not approve a site modification request for a new production
2 location until the Commission has received the site modification surcharge fee.

3
4 **SECTION XI. SEED ACQUISITION WITHIN THE UNITED STATES**

5
6 **A.** A person shall not acquire seeds or propagules from a source within the United States
7 without first:

8
9 **1.** Submitting a complete Domestic Seed/Propagule Request form, and

10
11 **2.** Obtaining written approval of the Domestic Seed/Propagule Request from a
12 representative of the Commission.

13
14 **B.** The Commission shall not approve a Domestic Seed/Propagule Request unless the
15 licensed Producer affirms in writing that the requested seed acquisition plan shall not infringe on
16 the intellectual property rights of any person.

17
18 **C.** A person submitting a Domestic Request form shall submit to the Commission
19 documentation showing that mature plants grown from that seed variety or strain have a floral
20 material delta-9-THC content of not more than 3,000 ppm on a dry weight basis from an
21 independent third-party laboratory.

22
23 **D.** A person submitting a Domestic Seed/Propagule Request form shall submit to the
24 Commission documentation verifying the seed or propagule source as a current legal Hemp
25 operation in the state of origin.

26
27 **E.** A person acquiring seeds or propagules shall arrange for the seeds or propagules to arrive
28 at the Commission for inventory and distribution.

29
30 **F.** Upon request from a representative of the Commission, a licensed Producer shall provide
31 a distribution list showing locations where and to whom the Hemp seeds were distributed
32 following inventory at the Commission's facility.

33
34 **SECTION XII. SEED ACQUISITION FROM A SOURCE OUTSIDE THE UNITED**
35 **STATES.**

1 **A.** A person seeking to obtain seeds from an international source shall submit a complete
2 International Seed Request form to the Commission

3
4 **B.** Hemp seeds can be imported from Canada if accompanied by either:

5
6 **1.** A phytosanitary certification from Canada's national plant protection organization
7 to verify the origin of the seed and confirm that no plant pests are detected; or

8 **2.** A Federal Seed Analysis Certificate for hemp seeds grown in Canada.
9

10 **C.** Importation of seeds from countries other than Canada shall be accompanied by a
11 phytosanitary certificate from the exporting country's national plant protection organization to
12 verify the origin of the seed and confirm that no plant pests are detected.
13

14 **D.** Hemp seed shipments may be inspected upon arrival at the first port of entry by Customs
15 and Border Protection (CBP) to ensure USDA regulations are met, including certification and
16 freedom from plant pests.
17

18 **E.** All licensed Producers intending to plant the requested seed shall be listed on the request
19 form.
20

21 **F.** The Commission shall not approve an International Seed Request form unless the licensed
22 Producer affirms in writing that the licensed Producer's planned activities shall not infringe on
23 the intellectual property rights of any person.
24

25 **G.** A person submitting an International Seed Request form shall submit to the Commission
26 documentation showing that mature plants grown from that seed variety have a floral material
27 delta-9-THC content of not more than .3% on a dry weight basis.
28

29 **H.** A person acquiring seeds or propagules from a source outside the United States shall
30 arrange for the seeds or propagules to arrive at the Commission's facility, for inventory and
31 distribution.

32 **I.** Upon request from a representative of the Commission, a licensed producer shall provide
33 a distribution list showing locations where and to whom the imported Hemp seeds were
34 distributed following inventory at the Commission's facility.
35
36

37 **SECTION XIII. SEEDS OF WILD, LANDRACE, OR UNKNOWN ORIGIN**

1 **A.** A person shall not acquire or grow Hemp or cannabis seeds or propagules of wild,
2 landrace, or unknown origin without first obtaining written approval from a representative of the
3 Commission.

4
5 **B.** The Commission shall not permit Hemp or cannabis seeds or propagules of wild,
6 landrace, or unknown origin to be planted, cultivated, or replicated by any person without the
7 Commission first arranging for replication and THC testing of mature plants grown from the
8 seeds or propagules by the Commission or its designee.

9
10 **C.** Any licensed Producer found to have saved seed, propagules, or cuttings, or cultivated
11 seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without
12 advance written permission from the Commission shall be subject to suspension or revocation of
13 his or her license and forfeiture without compensation of his or her materials.

14
15 **SECTION XIV. PLANTING REPORTS FOR OUTDOOR PLANTINGS**

16
17 **A.** A licensed Producer shall submit to the Commission a complete and current Field
18 Planting Report, within fifteen (15) days after every planting, including replanting, of seeds or
19 propagules in an outdoor location.

20
21 **B.** Each Field Planting Report shall identify the:

22
23 **1.** Correct variety name as designated upon approval of the acquisition request or as
24 approved by the Commission.

25
26 **2.** Field location ID as listed in the Producer licensing agreement.

27
28 **3.** Primary intended use of the harvest for each planting.

29
30 **C.** A licensed Producer who does not plant Hemp in an approved outdoor site listed in the
31 Producer license agreement shall submit a Field Planting Report, on or before July 31, stating that
32 Hemp has not and shall not be planted at that site.

33
34
35 **SECTION XV. PLANTING REPORTS FOR INDOOR PLANTINGS**

1 **A.** A licensed Producer shall submit to the Commission a complete and current
2 Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor
3 location.

4
5 **B.** Each Greenhouse/Indoor Planting Report shall identify the:

6
7 **1.** Correct Hemp variety name as designated in the Domestic Seed/Propagule
8 Request form or International Seed Request form and approved by the Commission.

9
10 **2.** Greenhouse or indoor growing location ID as listed in the Producer licensing
11 agreement.

12
13 **3.** Primary intended use for the harvest of each planting.

14
15 **C.** In addition to the initial Greenhouse/Indoor Planting Report, a licensed Producer with an
16 approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to
17 the Commission, such Reports shall be due no later than March 31, June 30, September 30, and
18 December 31.

19
20
21 **SECTION XVI. SITE ACCESS FOR REPRESENTATIVES OF THE COMMISSION,**
22 **USDA AND LAW ENFORCEMENT AGENCIES**

23
24 **A.** The Commission shall provide information about approved growing, processing,
25 handling, and storage site locations to Tribal Law Enforcement, USDA, DEA, and other law
26 enforcement agencies whose representatives request registered site information, including legal
27 description and GPS coordinates.

28
29 **B.** Licensed Producers shall have no reasonable expectation of privacy with respect to
30 premises where Hemp or other cannabis seeds, plants, or materials are located, and any premises
31 listed in the Producer licensing agreement.

32
33 **C.** A licensed Producer, whether present or not, shall permit a representative of the
34 Commission or a law enforcement agency to enter into premises where Hemp or other cannabis
35 seeds, plants, or materials are located and any premises listed in the Producer licensing agreement
36 with or without cause and with or without advanced notice.

1 **SECTION XVII. PESTICIDE USE**

2
3 **A.** A licensed Producer who uses a pesticide on Hemp shall be certified to apply pesticides
4 by the Commission regulations.

5
6 **B.** A licensed Producer who is certified to apply pesticides by the Commission shall not use,
7 or be eligible to use pesticides to Hemp in violation of the product label.

8
9 **C.** A licensed Producer shall not use any pesticide in violation of the product label.

10
11 **D.** A licensed Producer who uses a pesticide on a site where Hemp will be planted shall
12 comply with the longest of any planting restriction interval on the product label prior to planting
13 the Hemp.

14
15 **E.** The Commission may perform pesticide testing on a random basis or if representatives of
16 the Commission have reason to believe that a pesticide may have been applied to Hemp in
17 violation of the product label.

18
19 **F.** Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall
20 be subject to forfeiture or destruction without compensation.

21
22
23 **SECTION XVIII. RESPONSIBILITY OF A LICENSED GROWER PRIOR TO**
24 **HARVEST OF HARVEST LOTS; SAMPLING PROCEDURES**

25
26 **A.** The Commission may collect samples of any cannabis material prior to harvest at any
27 time.

28
29 **B.** Within 15 days prior to the anticipated harvest of cannabis plants, a producer shall have an
30 approved Federal, State, local law enforcement agency or other USDA designated person collect
31 samples from the flower material of such cannabis material for delta-9 tetrahydrocannabinol
32 concentration level testing.

33
34 **C.** The method used for sampling from the flower material of the cannabis plant must be
35 sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in
36 the Harvest lot would exceed the acceptable hemp THC level. The method used for sampling

1 must ensure that a Representative sample is collected that represents a homogeneous composition
2 of the Harvest lot. The Commission shall enact regulations governing sampling procedures that
3 conform to USDA requirements.

4
5 **D.** During a scheduled sample collection, the Producer or an authorized representative of the
6 Producer shall be present at the growing site.

7
8 **E.** Representatives of the Commission shall be provided with complete and unrestricted access
9 to all Hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and
10 other structures used for the cultivation, handling, and storage of all Hemp and other cannabis
11 plants, and all locations listed in the Producer license.

12
13 **F.** The licensed Producer shall not harvest the cannabis crop prior to samples being taken, and
14 shall harvest the crop not more than fifteen (15) days following the date of sample collection.

15
16 **G.** Samples of hemp plant material from one Harvest lot shall not be commingled with hemp
17 plant material from other Harvest lots.

18
19 **H.** Floral materials harvested for phytocannabinoid extraction shall not be moved outside the
20 Territory of the Tribe, nor commingled, nor extracted, until the Commission releases the material
21 in writing.

22
23 **I.** A licensed Producer who fails to submit a Harvest/Destruction Report or who does submit
24 a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by
25 an approved Federal, State, local law enforcement agency or other USDA designated person shall
26 be subject to revocation of his or her license and such other penalties authorized by this Statute
27 and federal law.

28
29
30 **SECTION XIX. THC TESTING**

31
32 **A.** Standard testing procedures are specified for samples taken in accordance with the
33 Sampling Procedures for the USDA Hemp Program to measure the delta-9 tetrahydrocannabinol
34 (THC) concentration levels of those samples on a dry weight basis. The THC testing procedures
35 shall be in accordance with USDA guidelines, and shall be adopted by regulation of the
36 Commission.

1 B. The Commission’s Regulations must include a procedure for testing that is able to
2 accurately identify whether the sample contains a delta-9 tetrahydrocannabinol content
3 concentration level that exceeds the acceptable hemp THC level. The procedure must include a
4 validated testing methodology that uses postdecarboxylation or other similarly reliable methods.
5 The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic
6 acid (THC-A) in hemp into THC and the test result measures total available THC derived from the
7 sum of the THC and THC-A content. Testing methodologies meeting these requirements include,
8 but are not limited to, gas or liquid chromatography with detection. The total THC concentration
9 level shall be determined and reported on a dry weight basis.
10
11

12 **SECTION XX – PROCEDURES FOR DISPOSAL/DESTRUCTION OF NON-**
13 **COMPLIANT CANNABIS PLANTS.**

14 A. Non-Compliant Plant Destruction.
15

- 16 1. Cannabis plants exceeding the Acceptable Hemp THC Level constitute marijuana, a
17 schedule 1 controlled substance under the Controlled Substances Act (CSA), 21 U.S.C. 801
18 et seq., and must be disposed of in accordance with the CSA and DEA regulations.
- 19 2. When a hemp sample tests above the Acceptable Hemp THC Level, the material from the
20 production area which the sample represents must be destroyed by a person authorized
21 under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly
22 authorized Federal, Tribal, State, or local law enforcement officer or their designee.
- 23 3. Producers must notify the Commission and USDA of their intent to dispose of non-
24 conforming plants and verify disposal by submitting required documentation. This can be
25 accomplished by providing the Commission and the USDA with a copy of the
26 documentation of disposal provided by the reverse distributor and with the “USDA Hemp
27 Plan Producer Disposal Form.”
28
29

30 **SECTION XXI. TRANSPORTATION REQUIREMENTS.**
31

32 A. The Licensee or other Person responsible for the transportation of a Hemp Crop grown
33 under this Statute must ensure that the following documentation accompanies the Hemp crop at all
34 times during transport:

- 35 1. a copy of the Producer license that corresponds to the Harvest Lot, Location and/or
36 Registered Land Area from which the Hemp originated;
37

1 **2.** a copy of the test results, as set forth in Section XXIV(C), that correspond to the to
2 the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the
3 Hemp.

4
5 **3.** a copy of the transport manifest that includes all information required to be
6 documented by the Commission or the Tribe.

7
8 **4.** any other documentation that may be required by the Tribe, the Commission, or the
9 USDA.

10
11
12 **SECTION XXII. RESTRICTIONS ON SALE OR TRANSFER**

13
14 **A.** A licensed producer shall not sell or transfer, or permit the sale or transfer, of living
15 plants, viable seeds, leaf material, or floral material to any person without prior approval by the
16 Commission.

17
18 **B.** The Commission shall permit the sale or transfer of stripped stalks, fiber, dried roots,
19 nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of the Acceptable
20 Hemp THC Level), and other marketable Hemp products to members of the general public, if the
21 marketable Hemp product’s delta-9-THC level does not exceed the Acceptable Hemp THC
22 Level.

23
24 **C.** A licensed Producer selling or transferring, or permitting the sale or transfer, of hemp,
25 shall retain testing data or results for at least three (3) calendar years demonstrating that the
26 delta-9-THC level is not more than the Acceptable Hemp THC Level.

27
28 **D.** Licensed Producers shall comply with the federal Food Drug and Cosmetic Act, 21
29 U.S.C. Chapter 9, and all other applicable federal laws and regulations relating to product
30 development, product manufacturing, consumer safety, and public health.

31
32
33 **SECTION XXIII. OTHER PROHIBITED ACTIVITIES**

34 **A.** A licensed Producer shall not plant or grow Hemp on any site not listed in the Producer
35 licensing agreement.

1 **B.** A licensed Producer shall not allow unsupervised public access to Harvest Lots, including
2 activities such as a Hemp maze.

3
4 **C.** A person shall not ship or transport, or allow to be shipped or transported, live Hemp
5 plants, cuttings for planting, or viable seeds from a variety that is currently designated by the
6 Commission as a prohibited variety.

7
8 **D.** A person shall not ship or transport, or allow to be shipped or transported, any Hemp
9 product with a delta-9-THC concentration in excess of the Acceptable Hemp THC Level.

10
11
12 **SECTION XXIV. OTHER REQUIRED REPORTS FOR PRODUCERS**

13
14 **A.** All licensed Producers shall report hemp crop acreage with FSA and shall provide, at a
15 minimum, the following information:

- 16
17 **1.** Street address, and to the extent practicable, geospatial location for each Harvest lot or
18 greenhouse where hemp will be produced. If an applicant/Producer produces in more
19 than one location, that information shall be provided for all production sites.
20
21 **2.** Acreage dedicated to the production of hemp, or greenhouse or indoor square footage
22 dedicated to the production of hemp
23
24 **3.** License or authorization identifier.

25
26 **B.** A licensed Producer shall submit a completed report to the Commission annually detailing
27 the total acreage of hemp planted, harvested, and if applicable, disposed.

28
29 **C. Test results report.** Each Producer must ensure that the DEA-registered laboratory that
30 conducts the test of the sample(s) from its Harvest lots reports the test results for all samples
31 tested to USDA. The Test Results report shall contain the information described in this paragraph
32 (2) for each sample tested:

- 33
34 **1.** Producer's license or authorization identifier.
35 **2.** Name of Producer.
36 **3.** Business address of Producer.
37 **4.** Harvest Lot identification number for the sample.
38 **5.** Name and DEA registration number of laboratory.

- 1 **6.** Date of test and report.
- 2 **7.** Identification of a retest.
- 3 **8.** Test result, including the measurement of uncertainty.

4

5 **D.** A licensed Producer's failure to submit an accurate and complete report that is required by
6 this Statute, the Commission or the USDA before the deadline established by the Commission or
7 the USDA shall constitute grounds for the Commission to terminate the Producer licensing
8 agreement and deny future applications for licensure.

9

10

11 **SECTION XXV. INFORMATION SUBMITTED TO THE COMMISSION SUBJECT**
12 **PUBLIC DOCUMENTS STATUTE**

13

14 Information and documents generated or obtained by the Commission in connection with the
15 program shall be subject to disclosure pursuant WOS 2010-009 Public Documents Statute, as
16 amended. Personal and confidential business information shall be exempt.

17

18

19 **SECTION XXVI. IMMEDIATE LICENSE SUSPENSION**

20

21 **A.** The Commission shall immediately suspend a license, without an opportunity for a
22 hearing, if the licensed person pleads guilty to, or is convicted of, any felony related to a
23 controlled substance.

24

25 **B.** The Commission shall immediately suspend a license, without an opportunity for a
26 hearing, if the licensed person or his or her agent admits to having made any false statement to
27 the Commission or its representative or failed to comply with any instruction or order from the
28 Commission, a representative of the Commission, or any federal or tribal law enforcement
29 officer.

30

31

32 **SECTION XXVII. NEGLIGENT VIOLATIONS; CORRECTIVE ACTION PLANS.**

33

34 **A. Negligent Violations.** Negligent Producer violations include, but are not limited to:

- 35
- 36 1. Failure to provide a legal description of land on which the Producer produces

1 hemp;

2
3 2. Failure to obtain a license or other required authorization from the Commission;

4
5 3. Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding
6 the Acceptable Hemp THC Level. Hemp producers do not commit a negligent violation
7 under this paragraph if they make reasonable efforts to grow hemp and the cannabis
8 (marijuana) does not have a delta-9 tetrahydrocannabinol concentration/Acceptable Hemp
9 THC Level of more than 0.5 percent on a dry weight basis.
10

11 4. Any other violation of this Statute, except for violations committed with a
12 culpable mental state greater than negligence.
13

14 **B. Corrective Action Plans for Negligent Violations.**

15
16 1. A person who is found by the Commission to have negligently violated this Statute,
17 or any statute or administrative regulation governing that person's participation in the
18 hemp program shall be subject to a corrective action plan.
19

20 2. Corrective action plans issued by the Commission shall include, at a minimum, the
21 following information:
22

23 i. A reasonable date by which the person shall correct his or her violation;
24 and
25

26 ii. A requirement for periodic reports from the person to the Commission
27 about the person's compliance with the corrective action plan, statutes, and
28 administrative regulations for a period of at least two (2) calendar years
29 from the date of the negligent violation.
30

31 3. A hemp Producer that negligently violates any USDA approved State or Tribal
32 Plan or any tribal law or regulation regulating hemp shall not as a result of that violation
33 be subject to any criminal enforcement action by the Federal, State, Tribal or local
34 government.
35

36 4. A hemp Producer that negligently violates any USDA approved State or Tribal
37 Plan or any tribal law or regulation regulating hemp three (3) times in a five (5)-year

1 period shall be ineligible to produce hemp for a period of five (5) years beginning on the
2 date of the third violation.

3
4 5. The Commission shall conduct an inspection to determine if the corrective action
5 plan has been implemented as submitted.
6

7
8 **SECTION XXVIII. VIOLATIONS WITH A CULPABLE MENTAL STATE GREATER**
9 **THAN NEGLIGENCE**

10
11 **A. Mandatory Reports to Tribal and Federal Law Enforcement Agencies for Violations**
12 **with a Culpable Mental State Greater Than Negligence.**
13

14 1. A person who is found by the Commission to have violated this Statute, federal law, or
15 any tribal administrative regulation governing that person's participation in the hemp
16 program with a culpable mental state greater than negligence shall be subject to the
17 requirements set forth in this section.
18

19 2. The Commission shall *immediately* report a person who is found to have violated this
20 Statute or any administrative regulation governing that person's participation in the hemp
21 program with a culpable mental state greater than negligence to the following law
22 enforcement agencies:
23

24 i. The Attorney General of the United States; and
25

26 ii. The Chief of the Tribal Police Department.
27

28 3. **Felonies.** Any person convicted of a felony relating to a controlled substance under State,
29 Tribal or Federal law within the prior ten (10) years shall be ineligible to participate in the
30 Tribe's Hemp Program.

31 i. An exception applies to a person who was lawfully growing hemp under the 2014
32 Farm Bill before December 20, 2018 whose conviction also occurred before that
33 date.

34 ii. For Producers that are entities, all Key Participants and persons with an ownership
35 interest in the entity shall be considered to be participating in the plan and subject
36 to the felony restriction for purposes of paragraph (3) of this Section.

1 iii. Any person who materially falsifies any information contained in a Producer
2 application to participate in the Tribe’s Hemp Program shall be ineligible to
3 participate in the Tribe’s Hemp Program.
4

5 4. **Civil Penalties.** If the Commission receives information supporting a finding that it is more
6 likely than not that a person has engaged in conduct violating a provision this Statute or the
7 Tribe’s hemp Regulations, or the licensing agreement, with a culpable mental state greater
8 than negligence, then the Commission shall bar that person from participating in the Tribe’s
9 Hemp Program for a minimum of five (5) years, and may assess a monetary civil penalty
10 in an amount not to exceed \$2,500.
11
12

13 **SECTION XXIX. HEARINGS ON VIOLATIONS.**

14

15 **A. Hearings; Consequences.**

16

17 1. Upon receiving information that a Producer has violated any USDA approved State or
18 Tribal plan, this Statute, any federal law, or any tribal administrative regulation governing that
19 person’s participation in the hemp program, the Commission shall provide reasonable notice to
20 the Producer of the date when a hearing will occur to determine if a violation has occurred.
21

22 2. Hearings shall be open to the tribal membership.
23

24 3. The Producer shall appear in person at the assigned hearing time. Failure to appear on time
25 shall constitute a waiver of the person’s right to present information and arguments that a
26 violation has not occurred.
27

28 4. A representative of the Commission shall be allowed an opportunity to present information
29 and arguments regarding the alleged violation.
30

31 5. The Producer shall allow an opportunity to present information and arguments.
32

33 6. If the Commission finds that it is more likely than not that a Producer negligently violated
34 any USDA approved State or Tribal plan, this Statute any federal law, or any tribal
35 administrative regulation governing that person’s participation in the hemp program, the
36 provisions of Section XXVI of this Statute shall apply.
37

1 **7.** If the Commission determines that it is more likely than not that a Producer violated any
2 USDA approved State or Tribal plan, this Statute, federal law, or any tribal administrative
3 regulation governing that person’s participation in the hemp program with a culpable mental
4 state greater than negligence, then Section XXVII of this Statute shall apply, and the person
5 shall be barred from participation in the Tribe’s Hemp Program in any capacity for a minimum
6 period of five (5) years.

7
8 **8.** If the Commission determines that no violation has occurred, the proceedings shall be
9 dismissed.

10
11 **9.** Any person who disagrees with the Commission’s decision, after a hearing has been held,
12 may appeal the Commission’s decision to Tribal Court.

13
14 **10.** The Court shall uphold the decision of the Commission unless the Court determines that
15 the Commission’s decision is clearly arbitrary, capricious, or otherwise not in accordance
16 with applicable law or regulations.

17
18 **B.** A person who is found by the Commission to have negligently violated any USDA
19 approved State or Tribal plan, this Statute, federal law, or any tribal administrative regulation
20 governing that person’s participation in the hemp program three (3) times in a five (5) year period
21 shall be ineligible to hold a license for a period of five (5) years beginning on the date of the third
22 violation.

23
24
25 **SECTION XXX. COMMISSION REPORTS TO THE USDA.**

26
27 **A. Hemp Producer Report.** The Commission shall collect, maintain and report to the
28 Secretary relevant, real-time information for each producer licensed or authorized to produce hemp
29 under this Statute as set forth in this Section, and shall submit to USDA, by the first of each month,
30 a report providing the contact information and the status of the license or other authorization issued
31 for each Producer covered under this Statute. If the first of the month falls on a weekend or holiday,
32 the report is due by the first business day following the due date. The report shall be submitted
33 using a digital format compatible with USDA’s information sharing systems, whenever possible.
34 The report shall contain the information described in this Section.

35 1. Producer Information.

- i. For each new Producer who is an individual and is licensed or authorized under this Statute, the report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
- ii. For each new Producer that is an entity and is licensed or authorized under this Statute, the report shall include full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
- iii. For each Producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.

2. Location Information.

- i. A legal description of the land on which the producer will produce hemp in the Territory of the Tribe, including its geospatial location.
3. The status and number of each Producer’s license or authorization.
4. The period covered by the report.
5. The information set forth in Section XXIV(B) of this Statute.
6. Indication that there were no changes during the current reporting cycle, if applicable.

B. Report of occurrence of cannabis plants or plant material that do not meet the definition of Hemp. The Commission shall promptly notify the Administrator by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and attach the records demonstrating the appropriate disposal of all of those plants and materials in the Harvest lot from which the representative samples were taken.

C. Hemp Disposal Report. If a Producer has produced cannabis exceeding the Acceptable Hemp THC Level, the cannabis must be disposed of in accordance with the Controlled Substances Act and DEA regulations. The Commission shall submit to USDA, by the first of each month, a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials. This report would include information regarding name and contact information for each Producer subject to a disposal during the reporting period, and date disposal was completed. If the first of the month fall on a weekend or holiday, reports are due by the first business day following the due date. The report shall contain the information described in this paragraph (7).

- 1 1. Name and address of the Producer.
- 2 2. Producer license or authorization identifier.
- 3 3. Location information, such as Harvest lot identifier, location type, and geospatial location
- 4 or other location descriptor for the production area subject to disposal.
- 5 4. Information on the agent handling the disposal.
- 6 5. Disposal completion date.
- 7 6. Total acreage.

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9 **D. Annual report.** The Commission shall submit an annual report to USDA. The Report
10 form shall be submitted by December 15 of each year and contain the information described in
11 this paragraph.

- 12 1) Total planted acreage.
- 13 2) Total harvested acreage.
- 14 3) Total acreage disposed.

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16 **SECTION XXXI. COMMISSION TO RETAIN INFORMATION ABOUT GROWING**
17 **LOCATIONS.**

18 A. The Commission shall collect and retain for a period of at least three calendar years, the
19 legal description, geospatial location, and Location ID information for every site or location
20 where the Tribe has approved hemp to be Produced.

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22 **SECTION XXXII. REGULATIONS**

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24 Any regulations promulgated or required in accordance with this Statute shall be submitted to
25 Tribal Council for approval.

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28 **SECTION XXXIII. SAVINGS CLAUSE**

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30 In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is
31 found by a court of competent jurisdiction to violate the Constitution, laws or Statutes of the Little
32 Traverse Bay Bands of Odawa Indians or federal law, such phrase, provision, part, paragraph,
33 subsection or section shall be considered to stand alone and to be deleted from this Statute, the

1 entirety of the balance of this Statute remain in full and binding force and effect.

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SECTION XXXIV. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto, and upon approval by the Secretary of the United States Department of Agriculture or his or her designee.

CERTIFICATION

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As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on _____ at which a quorum was present, by a vote of ___ in favor, ___ opposed, ___ abstentions, and ___ absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington Jr.	_____	_____	_____	_____
Fred Kiogima	_____	_____	_____	_____
Tamara Kiogima	_____	_____	_____	_____
Melissa Pamp	_____	_____	_____	_____
Leroy Shomin	_____	_____	_____	_____
Marty Van De Car	_____	_____	_____	_____
Marcella R. Reyes	_____	_____	_____	_____
Julie Shananaquet	_____	_____	_____	_____
Emily Proctor	_____	_____	_____	_____

Date: _____
_____ Emily Proctor, Legislative Leader

Date: _____
_____ Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on _____ by _____

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: _____
_____ Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on _____ by _____